

**Eddie Baza Calvo**  
Governor of Guam



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DEC 13 2018

Mr. Glenn Leon Guerrero  
Director  
Guam Department of Public Works  
542 North Marine Corps Drive  
Tamuning, Guam 96913

RE: Coastal Zone Management Act (CZMA) Federal Consistency Certification for NPDES Permit for MS-4 Operated by the Department of Public Works on Guam (GCMP FC No.2018-0017)

Dear Mr. Leon Guerrero,

*Hafa Adai!* The Bureau of Statistics and Plans (Bureau) has completed its review of the Department of Public Works (DPW) Federal Consistency Certification (subpart D) letter and application dated September 20, 2018 for the abovementioned proposed action. The Department of Public Works has applied to the U.S. Environmental Protection Agency (EPA), Region 9 Office for a National Pollutant Discharge Elimination System (NPDES) permit for discharges from the municipal separate storm sewer system (MS4) serving a portion of the Island of Guam under the jurisdiction of the Government of Guam. The NPDES MS4 permit is for the stormwater catchments and other drainages under the purview of the Government of Guam.

The Applicant must develop, implement and enforce a Stormwater Management Program (SWMP) designed to reduce the discharge of pollutants from the MS4 to the maximum extent practicable, to protect water quality and to satisfy the water quality requirements of the Clean Water Act. The SWMP must include best management practices (BMP); control techniques; system design and engineering methods; and other provisions the Guam Environment Protection Agency (GEPA) determines appropriate for the control of pollutants.

The Bureau coordinated this review with partnering agencies and did not receive any comments regarding the proposal.

The proposed action shall be operated and completed as represented in the Coastal Zone Management (CZM) federal consistency application and determination. Significant changes to the subject proposal shall be submitted to the Bureau for review and approval and may require a full CZM federal consistency review, including publication of a public



notice and provision for public review and comment. This condition is necessary to ensure that the proposed actions are implemented as reviewed for consistency with the enforceable policies of GCMP. Guam Land Use policies (E.O. 78-37), is the federally approved enforceable policy of GCMP that applies to this condition.

### **Development Policies:**

**DP1. Shore Area Development** – *Only those uses shall be located within the Seashore Reserve which: Enhance, are compatible with or do not generally detract from the surrounding coastal area's aesthetic and environmental quality and beach accessibility; or can demonstrate dependence on such a location and the lack of feasible alternative sites. (5 GCA Chapter 1, 10GCA Chapter 53.)*

The permittee must develop and implement a program to detect, investigate, and eliminate non-stormwater discharges, including illegal dumping, into its system. All runoff must be neutralized due to its potential to emit harmful pollutants from entering into and possibly degrading Guam's coastal waters and causing harmful effects to the marine animals and Guam's corals.

The unknown contaminants being discharged into the stormwater catchments has been an ongoing concern and should be addressed accordingly as any drainage of polluted waters into the sole source underground Aquifer Water Lens and Guam's coastal waters will have a direct impact on their environmental quality and for the safety and health to the people of the Territory of Guam.

### **Resource Policies:**

**RP2. Water Quality** – *Safe drinking water shall be assured and aquatic recreation sites shall be protected through the regulation of uses and discharges that pose a pollution threat to Guam's waters, particularly in estuarine, reef and aquifer areas. (10 GCA Chapter 46, 10 GCA Chapter 47, 22 GAR Chapter 10, 10 GCA chapter 53.)*

As presented by DPW, the MS4 permit would regulate pollutants in stormwater discharges into inland and coastal waters from stormwater catchments and other drainages that are located on Government of Guam properties. The permit would require that pollutants in the discharges be controlled as necessary to comply with Guam Water Quality Standards and other applicable requirements of the Clean Water Act. The GCMP believes that this should be a major focus and encourages DPW to ensure that all BMPs be followed in the Clean Water Act and Water Pollution Control Act as mandated by GEPA rules and regulations.

The GCMP believes that this should be a major focus and encourages DPW to ensure that all BMPs be followed in the Clean Water Act and Water Pollution Control Act as mandated by GEPA Water Resources Conservation Act, Water Pollution Control Act, and Guam Safe Drinking Water Act.



**RP3. Fragile Areas** - *Development in the following types of fragile areas including Guam's Marine Protected Areas (MPA) shall be regulated to protect their unique character. Historical and archeological sites, wildlife habitats, pristine marine and terrestrial communities, limestone forests, mangrove stands and other wetlands, and coral reefs shall be regulated to protect their unique character. (21GCA Chapter 77, 21GCA Chapter 76.)*

As stated in the application, DPW could require construction of new structural stormwater pollutant controls or other infrastructure at locations that remain to be determined. Construction projects disturbing one or more acres that may be necessary would be subject to the requirements of EPA's Construction General Permit (CGP). The CGP includes provisions to protect historical sites and sensitive areas such as habitats for listed endangered and threatened species. Applicant must conduct activities consistent with the Historic Preservation Laws.

Per 15 CFR §930.4(b), if the requirements for conditional concurrences specified in 15 CFR §930.4(a), (1) through (3), are not met, then all parties shall treat this conditional concurrence letter as an objection pursuant to 15 CFR Part 930 subpart F. Furthermore, if an objection is determined, you are hereby notified that, pursuant to 15 CFR §930.63(e) and 15 CFR Part 930, subpart H, you have the opportunity to appeal an objection resulting from not meeting the requirements of 15 CFR §930.4(a), (1) through (3), to the Secretary of Commerce within 30 days after receiving this conditional concurrence letter, or 30 days after receiving notice from the Federal funding agency that your application will not be approved as amended by the conditions required by this concurrence.

Therefore, based on the conditional concurrence stated above and the Bureau's review of all other information submitted, we find the application to be consistent with the approved development and resource policies of the Guam Coastal Management Program (GCMP), in accordance with the Coastal Zone Management Act of 1972, (P.L. 92-583) as amended, (P.L. 94-370). The Federal Consistency concurrence, however, does not preclude the need for securing other federal and Government of Guam permits, clearances and approvals prior to the start of this project.

Should you need additional information, please contact Mr. Francis Damian, Planner at 671-300-9665 or Mr. Edwin Reyes, Guam Coastal Management Administrator at 671-475-9672 or email [francis.damian@bsp.guam.gov](mailto:francis.damian@bsp.guam.gov) or [edwin.reyes@bsp.guam.gov](mailto:edwin.reyes@bsp.guam.gov), respectively. *Si Yu'os Ma'ase'.*

  
**CARL V. DOMINGUEZ**  
Director

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